

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
No. 5:15-CR-45

United States of America,

v.

Michael James Lee,

Defendant.

Order

In a March 3, 2015 Order, United States Magistrate Judge James E. Gates allowed Lee to be released from custody, subject to several conditions. D.E. 20. Among the conditions Judge Gates imposed were the conditions that Lee not use alcohol at all; that he participate in a remote alcohol monitoring program; and that he not violate federal, state, or local law while on release.

Id.

Lee appeared before United States Magistrate Judge Kimberly Swank for arraignment on April 6, 2015. At his arraignment, Lee pled guilty to one count of possession of a stolen check, in violation of 18 U.S.C. § 1708. Judge Swank continued Lee on the conditions of release set by Judge Gates and added conditions not relevant to this motion. Lee is scheduled to be sentenced on September 9, 2015.

On August 5, 2015, the Government filed a Petition for Action on Conditions of Pretrial Release seeking the revocation of the order allowing the pretrial release of Defendant Michael James Lee. D.E. 28. The Government alleged that Lee violated the conditions of his pretrial release by consuming alcohol and threatening the life of his daughter's mother.

The Court held a hearing on the Government's Petition on August 12, 2015. During the hearing Lee, who was represented by counsel, admitted that he violated the conditions of his

pretrial release by consuming alcohol. Lee's counsel indicated that he wished to answer the allegation that he threatened his daughter's mother by entering a plea of *nolo contendere*.

Both parties proffered information to the court. The Government's proffer showed that Lee had consumed alcohol on more than one occasion while on pretrial release and had failed to adhere to the terms of the remote alcohol monitoring program on several occasions. Additionally, the Government established that Lee had threatened the life of his daughter's mother while on pretrial release. Defense counsel argued that although Lee has a history of substance abuse and mental health issues, he has made a concerted effort to improve himself and his condition in life.

Based upon the credible information presented at the hearing, the court finds by clear and convincing evidence that Lee has violated the conditions of release. The court also finds that it is unlikely that Lee will abide by any condition or combination of conditions of release. Therefore, pursuant to 18 U.S.C. § 3148, it is ordered that the March 3, 2015 and April 6 2015 Orders authorizing Lee's release are revoked and he shall be detained pending the imposition and execution of his sentence.

Lee is committed to the custody of the Attorney General or a designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or held in custody pending appeal. Lee must be afforded a reasonable opportunity to consult privately with defense counsel. On order of a United States Court or on request of an attorney for the Government, the person in charge of the corrections facility must deliver Lee to the United States marshal for a court appearance.

Dated: August 12, 2015



Robert T. Numbers, II
United States Magistrate Judge